

## **CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.**

### **Subchapter G. CERTIFICATES OF CONVENIENCE AND NECESSITY.**

#### **§24.106. Notice and Mapping Requirements for Certificate of Convenience and Necessity Applications.**

- (a) If an application for issuance or amendment of a certificate of public convenience and necessity (CCN) is filed, the applicant will prepare a notice or notices, as prescribed in the commission's application form, which will include the following:
  - (1) all information outlined in the Administrative Procedure Act, Texas Government Code, Chapter 2001;
  - (2) all information stipulated in the commission's instructions for completing an application for a CCN; and
  - (3) a statement that persons who wish to intervene or comment upon the action sought file a request with the commission, within 30 days of mailing or publication of notice, whichever occurs later.
- (b) After reviewing and, if necessary, modifying the proposed notice, the commission will send the notice to the applicant for publication and/or mailing.
  - (1) For applications for issuance of a new CCN, the applicant shall mail the notice to cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within five miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction that overlaps the proposed service area boundaries. Applicants are also required to provide notice to the county judge of each county and to each groundwater conservation district that is wholly or partly included in the area proposed to be certified.
  - (2) For applications for an amendment of a CCN, the applicant shall mail the notice to cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within two miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction that overlaps the proposed service area boundaries. If decertification or dual certification is being requested, the applicant shall provide notice by certified mail to the current CCN holder. Applicants are also required to provide notice to the county judge of each county and to each groundwater conservation district that is wholly or partly included in the area proposed to be certified.
  - (3) Except as otherwise provided by this subsection, in addition to the notice required by subsection (a) of this section, the applicant shall mail notice to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate mailed notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:
    - (A) TWC, §13.248 or §13.255; or
    - (B) TWC, Chapter 65.
  - (4) Applicants previously exempted for operations or extensions in progress as of September 1, 1975, must provide individual mailed notice to all current customers. The notice must contain the information required in the application.
  - (5) Utilities that are required to possess a certificate but that are currently providing service without a certificate must provide individual mailed notice to all current customers. The notice must contain the current rates, the effective date those rates were instituted, and any other information required in the application.

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- (6) Within 30 days of the date of the notice, the applicant shall submit to the commission an affidavit specifying the persons to whom notice was provided and the date of that notice.
- (c) The applicant shall publish the notice in a newspaper having general circulation in the county or counties where a CCN is being requested, once each week for two consecutive weeks beginning with the week after the proposed notice is approved by the commission. Proof of publication in the form of a publisher's affidavit shall be filed with the commission within 30 days of the last publication date. The affidavit shall state with specificity each county in which the newspaper is of general circulation.
- (d) The commission may require the applicant to deliver notice to other affected persons or agencies.
- (e) In this section, utility service provider means a retail public utility other than a district subject to TWC, §49.452.
- (f) A utility service provider shall:
  - (1) record in the real property records of each county in which the service area, or a portion of the service area is located, a certified copy of the map of the CCN and of any amendment to the certificate as contained in the commission's records, and a boundary description of the service area by:
    - (A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;
    - (B) the Texas State Plane Coordinate System;
    - (C) verifiable landmarks, including a road, creek, or railroad line; or
    - (D) if a recorded plat of the area exists, lot and block number; and
  - (2) submit to the commission evidence of the recording.
- (g) The recording required by this section must be completed not later than the 31st day after the date a utility service provider receives a final order from the commission granting an application for a new certificate or for an amendment to a certificate that results in a change in the utility service provider's service area.
- (h) The recording required by this section for holders of certificates of public convenience and necessity already in existence as of September 1, 2005 must be completed not later than January 1, 2007.